IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO,.10 OF 2005
IN
WRIT PETITION NO.2148 OF 2004

Jayashree Jayant Lohokare...Petitioner

Vs.

The Union of India & Ors....Respondents

Mr. J.M. Tanpure, for the Petitioner
Mr.Rajiv Chavan, Counsel with Smt. Rutija Ambekar, for the Respondent - Union of India.

CORAM: F.I. REBELLO &
DR. D.Y.CHANDRACHUD, JJ.
DATE : 18th April,2006

P.C.:

. By order dated 4th February, 2005 we had dismissed the petition. We had also held that considering the policy in force a widowed/divorced daughter would be entitled to family pension upto the age of 25 years.

2. By the Review Petition our attention is invited to O.M. dated 25th August, 2004. The relevant portion of the O.M. reads as under:-

> "Government has received representations for removing the condition of age limit in favour of divorced/widowed daughter so that they become eligible for family pension even after attaining the age limit of 25 years. The matter has been under consideration in this Department for sometime. In consultation with the Ministry of Finance, Department of Expenditure and the Ministry of Law and Justice, Department of Legal

> Affairs etc., it has now been decided that there will be no age restriction in the case of the divorced/widowed daughter who shall be eligible for family pension even after their attaining 25 years of age subject to all other conditions prescribed in the case of son/daughter. Such daughter, including disabled divorced/widowed daughter shall, however, not be required to come back to her parental home as stipulated in para 2(ii) of this Department's O.M. dated 25th July, 2001, which may be deemed to have been modified to that extent."

3. This O.M. was not brought to our attention when the matter was disposed of either by the petitioner or by the Respondents. However, considering that the said O.M. subsisted and as the order has been passed without considering the said O.M. the order dated 4th February, 2005 stands recalled.

4. In order to avoid further litigation we propose to dispose of the petition itself. The facts are not in dispute. The petitioner is a divorcee. The age limit of 25 years has been done away with and considering para.2 of the O.M. which we have reproduced earlier, the petitioner would be entitled to family pension from the date of the O.M. In the light of that, the impugned order dated 27th March, 2003 is quashed and set aside. The

Respondents are directed to grant family pension to the petitioner according to law with effect from 25th August, 2004. The entire exercise to be completed within 12 weeks from today. Rule made absolute accordingly. There shall be no order as to costs.

(F.I.REBELLO, J.)

(DR. D.Y. CHANDRACHUD, J.)